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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,286	07/03/2006	Sunil Shaunak	POLYT 9866 WO - US	2614
39843	7590	01/29/2010	EXAMINER	
BELL & ASSOCIATES 58 West Portal Avenue No. 121 SAN FRANCISCO, CA 94127			PAGONAKIS, ANNA	
			ART UNIT	PAPER NUMBER
			1628	
			NOTIFICATION DATE	DELIVERY MODE
			01/29/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

abell@bell-iplaw.com  
mkaser@bell-iplaw.com  
info@bell-iplaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,286	<b>Applicant(s)</b> SHAUNAK ET AL.	
	<b>Examiner</b> ANNA PAGONAKIS	<b>Art Unit</b> 1628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 78-97 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 78-97 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                          |

### DETAILED ACTION

Due to the complex nature of the claims, no request for oral election is being made. Please see MPEP 812.01.

#### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. **Group I:** Claims 78-93, drawn to a complex comprising a narrow molecular weight distribution polymer comprising units derived from an acrylic acid or a salt thereof, and a compound selected from the group consisting of, a substance that has pharmacological activity against a cancer, and one or more agents selected from the group consisting of antigens and immunogens.
- II. **Group II:** Claim 94-97, drawn a method of treating an infection by a pathogenic organism, the method comprising the steps of i) inducing an immune response to a pathogenic organism, ii) treating or inducing an immune response to a cancer, iii) inducing an immune response to an antigen or immunogen, the step comprising administering to a subject in need of such treatment an effective amount of a narrow molecular weight distribution polymer that includes units derived from an acrylic acid or a salt thereof, a compound selected from the group consisting of, a substance that has pharmacological activity against a pathogenic organism, a substance that has pharmacological activity against a pathogenic organism, a substance that has pharmacological activity against a cancer, and one or more agents selected from the

group consisting of antigens and immunogens.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

An international application should relate to only one invention or, if there is more than one invention, the inclusion of those inventions in one international application is only permitted if all inventions are so linked as to form a single general inventive concept (PCT Rule 13.1). With respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features.

The claims herein lack unity of invention under PCT rule 13.1 and 13.2 since, under 37 CFR 1.475(a)

Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression “special technical features” shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

**Groups I-II** lack unity of invention since under 37 CFR 1.475 because they lack a special technical feature as the technical feature present fails to define a contribution over the prior art. The prior art teaches of a polymeric drug obtained by polymerizing acrylic or methacrylic acid derivatives to which a physiologically active substance such as Amphotericin B (column 2, line 30) is bonded via an ester linkage; wherein the polymeric drug has a polydispersity of 1.1 or less, i.e. a narrow molecular weight distribution (GB 2290707 A; of record). Accordingly, unity of invention is considered to be lacking and restriction of the invention in accordance with the rules of unity of invention is considered to be proper.

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Furthermore, in regards to Groups I-II, even if unity of invention under 37 CFR 1.475(a) is not considered lacking, which it is as evidenced above, unity is lacking under 37 CFR 1.475(b). Under 37 CFR 1.475(b): A national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations:

- (1) A product and a process specially adapted for the manufacture of said product; or
- (2) A product and a process of use of said product; or
- (3) A product, a process specially adapted for the manufacture of said product, and a use of said product; or
- (4) A process and an apparatus or means specifically designed for carrying out the said process; or
- (5) A product, a process specially adapted for the manufacture of said product, and an apparatus or means specifically designed for carrying out the said process.

And according to 37 CFR 1.475(c): if an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph 37 CFR 1.475(b), unity of invention might not be present.

Therefore, since the claims do not relate to a single general inventive concept under PCT Rule 13.1 and lack the same or corresponding special technical feature, the claims lack unity of invention and should be limited to only a product or a method of use.

#### ***Election of Species***

As an additional requirement, with the election of any one of **Groups I-II**, an election of species of a particular species is also required. In order for this election to be considered fully responsive to this requirement the election **must include**:

#### **Groups I-II**

- a) the name and structure of one polymer (see for example instant claims 90-91)

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b) the location of the species (a) within the claims or (b) within the specification,

c) the claims that read on the elected species,

d) and a definition of the exact substitutions,

e.g. R<sub>1</sub> is Hydrogen, X is oxygen, etc...

e) one specific use for compounds of formula I;

a) the name and structure of one substance that has pharmacological activity against a pathogenic organism, a substance that has pharmacological activity against a cancer;

b) the location of the species (a) within the claims or (b) within the specification,

c) the claims that read on the elected species,

d) and a definition of the exact substitutions,

e.g. R<sub>1</sub> is Hydrogen, X is oxygen, etc...

a) the name and structure of one antigen or immunogen;

b) the location of the species (a) within the claims or (b) within the specification,

c) the claims that read on the elected species,

d) and a definition of the exact substitutions,

e.g. R<sub>1</sub> is Hydrogen, X is oxygen, etc...

e) one specific use for compounds of formula I;

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.**

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The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANNA PAGONAKIS whose telephone number is (571)270-3505. The examiner can normally be reached on Monday thru Thursday, 9am to 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brandon Fetterolf can be reached on 571-272-2919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Brandon J Fetterolf/

Primary Examiner, Art Unit 1642